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Attorneys for Defendants  
CITY OF MENLO PARK and DAVE BERTINI

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

MICHAEL ZELENY, an individual

Plaintiff,

vs.

EDMUND G. BROWN, JR., an individual, in  
his official capacity, et al.

Defendants.

Case No. 17-cv-07357-RS (TSH)

**DEFENDANT CITY OF MENLO PARK'S  
OBJECTIONS TO DECLARATION OF  
DAVID W. AFFELD IN SUPPORT OF  
PLAINTIFF MICHAEL ZELENY'S  
NOTICE OF MOTION AND MOTION FOR  
ATTORNEY'S FEES**

Date: January 6, 2022  
Time: 1:30 p.m.  
Courtroom: 3, 17th Floor

Action Filed: December 28, 2017  
Trial Date: None Set

COMES NOW Defendant City of Menlo Park to submit the following objections to the  
Declaration of David W. Affeld in Support of Plaintiff Michael Zeleny's Notice of Motion and  
Motion for Attorney's Fees:

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	<u>Paragraph</u>	<u>Page/Line</u>	<u>Objection and Grounds</u>
1			
2	3	2/14-15	Testimony as to what the District Attorney
3			“claimed” in 2014 is hearsay and not relevant.
4		2/15-16	Testimony that the City “maintained that a
5			City permit was required” is vague as to what
6			type of permit is being referenced as well as
7			hearsay, particularly since it cannot be
8			determined who purportedly made such a
9			statement. To the extent the declarant claims
10			that the City required a Special Event Permit
11			such testimony is not supported by the
12			evidence, including Plaintiff’s deposition
13			testimony. <i>See</i> Plaintiff’s deposition transcript
14			at Pg. 101, Line 21 to Pg. 102, attached to the
15			Declaration of Todd H. Master in Support of
16			Motion of Defendants City of Menlo Park, etc.
17			as Exhibit A. <i>See</i> Dkt. 160-3 at p. 2, lines 5-9,
18			p. 19 and pp. 41-47.
19			
20	4	2/20-22	Hearsay, conclusion, improper foundation,
21			relevance, settlement discussions.
22	5	2/24-25	Hearsay, conclusory, lacks foundation.
23	9	3/12-18	Hearsay, conclusion, improper foundation,
24			relevance, settlement discussions.
25	10	3/22-23	Lacks foundation, conclusory
26		3/23-25	Lacks foundation, hearsay, conclusory
27	11	4/4-10	Hearsay, relevance, best evidence.
28			

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5/12-26

Hearsay, relevance, lacks foundation

18

5/27 – 6/11

Hearsay, conclusory, lacks foundation

HOWARD ROME MARTIN & RIDLEY LLP

Date: December 3, 2021

By /s/ Robert J. Gundert

Robert J. Gundert

Attorneys for Defendants

CITY OF MENLO PARK and

DAVE BERTINI